

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

B&R Produce Packing Co.,  
Inc.; Grant Stanton Produce  
Company, Inc.; Gregg Dziama,  
Inc.; J. Bonafede Co., Inc.;  
S. Strock & Co., Inc.; and  
State Garden, Inc.

v.

Civil No. 13-cv-367-JD

A&H Farms, Inc. d/b/a Coll's  
Farm, Coll's Farm Sugar House  
and Coll's Farm Market & Deli;  
Lori Coll a/k/a Lori A. Coll;  
and Mark Coll a/k/a Mark R. Coll

**REPORT AND RECOMMENDATION**

Plaintiffs have sued in fourteen counts, asserting various claims arising from defendants' alleged failure to pay for produce delivered to them by plaintiffs. Before me for a report and recommendation is a filing titled "Plaintiffs' Motion for Attachment on Real Estate Pursuant to F.R.C.P. 64." Defendants, who have been defaulted, see doc. nos. 9 & 10, have not objected or otherwise responded to plaintiffs' motion. Nevertheless, I recommend that the motion be denied.

The Federal Rules of Civil Procedure provide that "[a]t the commencement of and throughout an action, every remedy is available that, under of the law of the state where the court is

located, provides for seizing a person or property to secure satisfaction of the potential judgment." Fed. R. Civ. P. 64(a). In New Hampshire, "[i]n all civil actions . . . a defendant shall be given notice and an opportunity for a preliminary hearing before any pre-judgment attachment . . . shall be made." N.H. Rev. Stat. Ann. ("RSA") § 511-A:1. The pre-judgment attachment statute also requires that "the plaintiff shall cause to be served on the defendant . . . a notice, which shall be incorporated prominently in the writ or order of notice," RSA 511-A:2, and the statute goes on to describe the language that must be included in such a notice, see RSA 511-A:2, I-IV.

Rather than incorporating the required notice in the summonses they served on defendants, plaintiffs have filed the motion now before the court. Because their motion, which, presumably, is intended to serve as the notice of intent required by RSA 511-A:2, does not include the language described in that statute, their motion for an attachment should be denied.

Any objections to this report and recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57

(1st Cir. 2011), cert. denied, 132 S. Ct. 1045 (2012); Sch. Union No. 37 v. United Nat'l Ins. Co., 617 F.3d 554, 564 (1st Cir. 2010) (only issues fairly raised by objections to magistrate judge's report are subject to review by district court; issues not preserved by such objection are precluded on appeal).

  
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Landya McCafferty  
United States Magistrate Judge

November 8, 2013

cc: Marc W. McDonald, Esq.